

JUL 10 2023

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHARLES RANDALL SORENSEN,

Plaintiff-Appellant,

v.

EDWARD H. BASTIAN, CEO for Delta
Airlines; DELTA FAMILY CARE
RETIREMENT, Trust, Also named as
Delta F-Care Retirement,

Defendants-Appellees.

No. 22-15320

D.C. No. 3:21-cv-08121-JJT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John Joseph Tuchi, District Judge, Presiding

Submitted July 6, 2023**

Before: WALLACE, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Charles Sorensen appeals from the district court's dismissal of his action
challenging the defendants' compliance with an Internal Revenue Service Notice

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision
without oral argument. *See* Fed. R. App. P. 34(a)(2).

of Levy. We review de novo, *Lopez-Valenzuela v. Arpaio*, 770 F.3d 772, 777 (9th Cir. 2014) (en banc), and affirm.

The district court correctly held that the defendants were not in default because they filed a timely Rule 12(b)(6) motion to dismiss the amended complaint, instead of filing an answer. The timely Rule 12(b)(6) motion extended the deadline to answer until after the district court denied the motion. Fed. R. Civ. P. 12(a)(4)(A). Because the district court granted the motion to dismiss, the defendants were not required to file an answer.

The district court properly dismissed this action for failure to state a claim. Sorensen cannot state a claim against the defendants for complying with the Notice of Levy. *See* 26 U.S.C. § 6332(e) (providing that a person who “surrenders” property in compliance with a levy “shall be discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment.”).

AFFIRMED.